

OFFICIAL BILINGUALISM IN CANADA

Grant Purves
Political and Social Affairs Division

18 April 1986
Revised 17 May 1991



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Cat. No.

ISBN

YM32-1/86-11-1991-05E
0-660-14132-9

N.B. Any substantive changes in this publication which have been made since the preceding issue are indicated in **bold print**.

CE DOCUMENT EST AUSSI
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ISSUE DEFINITION

Despite the entrenchment of language rights in the Constitution, a number of issues remain unresolved with respect to the implementation of official languages policy in the federal government, as the annual and special reports of the Commissioner of Official Languages and the Reports of the Special Joint Committee on Official Languages have indicated. Moreover, language issues continue to be a source of controversy in both Alberta and Ontario and have become a new source of political strife in Saskatchewan. In Quebec, a "territorial" philosophy of language rights clashes with the federal "institutional" approach, to which it is diametrically opposed, as the provincial and federal Charters are challenged in various legal disputes. Finally, recent data from the 1981 and 1986 censuses suggest that current demographic and other trends also continue to move in a direction which works against the federal approach. Now into its second decade, official bilingualism in Canada is still topical.

This review therefore examines three continuing areas of concern about language rights and language policy: (1) the consequences of constitutional entrenchment of language rights; (2) the practical problems of implementation of official languages policy in the federal bureaucracy; and (3) the situation of official language minority rights in various provinces.

BACKGROUND AND ANALYSIS

Canada is a pluralist society, but unlike many other such societies its political tradition tends to reinforce, rather than level out differences - of language, religion, culture -- which are further intensified by territorial division and economic disparity. It could be argued that language is the most important of all these distinguishing factors, as it has shaped the structure of the political system and influenced policy decisions from Confederation to the present.*

In response first to the Quiet Revolution of the '60s in Quebec and then to the election of a Parti Québécois government in 1976, the federal government over the past 20 years has attempted to deal with the language issue by implementing a policy of official bilingualism. This "institutional" approach, while it accomplished a great deal, nevertheless did not meet with the success originally hoped for in terms of implementation, nor did it succeed in serving as a model for several provincial governments whose electorate contains a significant official language minority. In view of this, and given the promise of a "renewed federalism" made by federal politicians during the 1980 Quebec referendum campaign, the *Canadian Charter of Rights and Freedoms*, entrenching substantial official language guarantees, became the centrepiece of the constitutional review process which terminated with the proclamation of the *Constitution Act, 1982*. More recently, the 1987 *Constitutional Accord* recognized the existence of both English-speaking Canadians and French-speaking Canadians within Canada, while underlining the distinctive character of Quebec society.

A. The Charter and its Impact on Language Issues

With the proclamation of the *Constitution Act, 1982* the concept of official languages in Canada became constitutionally entrenched.

* For a comprehensive examination of the historical development of language-related issues in Canada, see Background Paper BP-74E, *Perspectives on Language Policy in Canada*.

While sections 16-20 of the Charter of Rights and Freedoms merely confirm some of the rights which the *Official Languages Act* of 1969 had already outlined -- namely that English and French are the official languages of Canada and may be used equally with respect to proceedings of Parliament and federal courts as well as in communication by the public with federal institutions -- they also provide some additional guarantees. (Sections 16-23 of the Charter are reproduced in the Appendix to this CIR.)

In section 16, for example, the two languages are to have "equality of status and equal rights and privileges" in their use in "all institutions of the Parliament and government of Canada." This has been interpreted by several legal authors to include language of work and equitable representation, and to extend coverage to federal Crown corporations and other previously excluded governmental bodies. At the same time, section 24 of the Charter provides an enforcement mechanism, something which the former *Official Languages Act* clearly lacked (but which was added in the Act of 1988). There has been much speculation that a number of cases will arise as a result of sections 16-20, and it is therefore with great interest that observers are watching the evolution of case law in this area. Court challenges have not been long in coming, thanks in part to a financial assistance program for Canadians who wish to challenge before the Courts any perceived failure to respect their language rights (a program which, in 1985, was entrusted to a non-profit organization, the Canadian Council on Social Development).

Three Supreme Court decisions handed down on 1 May 1986 placed a restrictive interpretation on certain of the Constitution's language provisions. In two similar cases (*MacDonald v. City of Montreal* and *Bilodeau v. Attorney General of Manitoba*), the judges ruled that a summons to appear in court could be worded in either French or English without respect to the language of the citizen summoned, since section 133 of the *Constitution Act, 1867* did not introduce a system of integral bilingualism but rather one of optional unilingualism. In another case (*Société des Acadiens du Nouveau-Brunswick v. Association of Parents for Fairness in Education*), the judges interpreted section 19(2) of the Charter

restrictively, ruling that the guarantee of the right to use either French or English before New Brunswick's courts did not include the right to be understood. These three decisions have come as a cold shower to the hopes of official-language minorities, since they limit the extent of the constitutional protection afforded such minorities.

One of the most significant of the language provisions in the Charter is section 23 on minority language education rights, an entirely new section not drawn from the *Official Languages Act*. This section provides substantial guarantees for official language minorities with respect to primary and secondary-level education, based on the criteria of (1) mother tongue, (2) the language of education of parents (in Canada) and (3) the language in which other children in a family are receiving or received their education. By virtue of a special amendment to the original November 1981 constitutional accord (s. 59), the first criterion applies in all provinces except Quebec, while the second and third criteria apply in all 10 provinces.

This section of the Charter is the one that has so far given rise to the most controversy, and it will likely continue to do so for some time to come. The P.Q. Quebec government looked on section 23 as a threat to the survival and autonomy of Quebec, and it became obvious from the ruling handed down by Judge Deschênes in the 1983 suit brought against Quebec's Attorney General by the Quebec Association of Protestant School Boards that there is indeed a conflict between the *Canadian Charter of Rights and Freedoms* and Quebec's *Charter of the French Language*. But for the minority language groups in other provinces, section 23 seemed to arrive just in time to force their provincial governments not only to provide French schools, but also to allow the minorities to manage those schools themselves.

The 1982 constitutional accord was incomplete, however, since the government of Quebec had refused to sign it. The arrival in power of the Liberals in Quebec and the Conservatives in Ottawa would make some progress possible in this respect, since both of these parties had announced, in their respective election campaigns, that they would achieve the national reconciliation promised following the defeat of the Quebec

referendum on sovereignty-association. At the federal-provincial conferences held in Edmonton in August 1986 and at Meech Lake in April and June 1987, some headway was made in the talks. Contrary to expectations, the eleven First Ministers reached an agreement in principle that would allow Quebec to resume full participation in the evolution of the Canadian Constitution. While Parliament and eight provinces ratified the Accord, the election of new provincial governments eventually blocked final ratification.

B. Implementation of the Official Languages Policy
within the Federal Government

While much has been accomplished since the implementation of the *Official Languages Act* in 1969, a great deal remains to be done if the federal government is to achieve its stated objectives with respect to language of service, language of work and equitable representation. Both the Commissioner of Official Languages and the Special Joint Committee on Official Languages have repeatedly indicated that a combination of legal and administrative remedies is required to ensure compliance. Both have, moreover, called for a declaration of the primacy of this Act.

The government finally took action on 25 June 1987, when it tabled in the House a bill on official languages that was a strengthened version of the existing legislation. The contents appeared to meet the expectations of the Commissioner of Official Languages, the various associations that represent language minorities and the parliamentarians with an interest in reform of Canada's language legislation. However, a group of Conservative back-benchers spoke out on behalf of the opponents of bilingualism; and even went so far as to embarrass the government by speaking against the bill in the debate at second reading. On 11 March 1988, the government established a Legislative Committee to study the bill under the chairmanship of Marcel Danis, Deputy Speaker of the House. In June the Committee reported the bill with a number of amendments, most of them technical, that left its principles untouched. After a brief study in the Senate, the bill was given Royal Assent on 28 July 1988.

The new Act contains the following elements: a statement of its primacy over "any other Act of Parliament or regulation", provision for court remedy that will enforce greater respect for the law, measures to ensure better access to justice in both official languages, recognition of Canada's duality, a commitment by the government to support the development of language minorities and promote the use of both official languages throughout Canada, provisions giving Canadians the right to be served in the language of their choice by federal institutions and federal employees the right to work in the official language of their choice, an increase in the powers of the Commissioner of Official Languages, and a declaration of close cooperation with the provincial governments and municipalities to make possible the development of their services in both official languages. The government also announced its intention of setting up an Official Languages Advisory Board, which would be responsible for advising it on all language issues. Lastly, the Act imposes on the Secretary of State and the President of the Treasury Board the obligation to report annually to Parliament on their respective official language responsibilities.

Following adoption of the Act there was a long delay before the government tabled a significant part of the regulations and directives to the Act that will make it effective. In November 1990 the government finally tabled a draft of the regulations respecting communications with and services to the public. The proposed regulations on sufficient demand are complex and include general rules based on the absolute and relative size of the linguistic minority as well as rules governing specific services - maritime communications, air traffic control, airport, ferry and railway terminals, etc. Additional regulations deal with the bilingual requirements for offices and facilities that offer health, safety and security services or whose national and/or international status requires that they provide services in both languages regardless of demand. Finally, there is a section of regulations dealing with services to the travelling public. Because Parliament and the public must be given time to consider them, it is unlikely that these regulations can be implemented before the end of 1991.

The draft of the proposed regulations respecting communications with and services to the public was referred to the Standing Joint Committee on Official Languages which, beginning on 4 December 1990, heard from a large number of witnesses in the course of 16 public hearings. The Committee tabled its Report in early May 1991.

The Report made seven recommendations, which, if implemented, would involve only minor amendments to the regulations. Where demand for minority language services has to be determined, the Committee recommended that the methods be determined after consultation with the local linguistic minority and that the evaluation be carried out independently of the federal institution concerned. The Committee also recommended that the local linguistic minority community be consulted before the service area of an office or facility is altered. In a minority report, the representatives of the Liberal Party on the Committee made far-reaching recommendations that would basically re-write the regulations in favour of the official language minorities without regard for costs. The representative of the N.D.P., while supporting the majority report, expressed reservations about the 5% rules and about the failure of the Committee to find some way to recognize the special status of New Brunswick as the only officially bilingual province. A representative of the Conservative Party also noted a dissenting opinion.

The regulations on language of work and those on equitable participation in federal institutions must also be presented before the Act can become fully effective.

Under Part X of the *Official Languages Act*, the Commissioner has the power to seek a court remedy if efforts to settle a complaint by agreement fail. In a first test of these new powers, the Commissioner has asked the Federal Court to order Air Canada to place commercial advertisements in French newspapers anywhere in English-speaking Canada where there is "significant demand" when the airline places advertisements in the English press. No date has been set for a hearing.

As for administration, both the Committee and the Commissioner have recommended numerous changes and/or improvements with respect to the official languages policy within the federal public

service. These recommendations were aimed at increasing the level of bilingualism of senior management and supervisors, ensuring better Francophone representation at all levels and in all sectors of the government, and promoting the increased use of French as the language of work.

Bilingualism presents a serious obstacle to the achievement of a stated goal of the present government, the privatization of the major Crown corporations, as these corporations are important vehicles for the national language policy across the country. The contributions to the national language policy of Crown corporations such as the Canadian Broadcasting Corporation, Air Canada, Petro-Canada and the Canada Post Corporation explains, at least in part, the lack of progress that has been made thus far in privatizing them.

The federal government's official languages policy has not received wholehearted support, however. In fact, throughout the country, people are objecting more and more openly to its implementation. In November 1987, the new Reform Party of Canada adopted a resolution aimed at preventing any extension of bilingualism in western Canada. Moreover, the Association for the Preservation of English in Canada (APEC) now has followers in several provinces, including New Brunswick, Quebec and Ontario. Although still a fringe group, this movement has succeeded in getting 112 Ontario municipalities (out of 839, or more than 12%) to rise up against Bill 8 on French-language services. Until early 1990, APEC had been most successful in encouraging small towns, villages and townships, mainly in southern and western Ontario, to declare themselves unilingually English. In late January and early February, the northwestern Ontario cities of Sault Ste Marie and Thunder Bay also adopted resolutions to that effect; however, similar resolutions were defeated in the cities of Niagara Falls, Brockville and Kitchener.

With the aim of having its officially bilingual character recognized internationally, Canada has for the last 20 years supported an association of French-speaking countries, set up somewhat on the lines of the English-speaking Commonwealth. However, a Francophone summit did not come about as long as the governments of Quebec and Canada could not agree

on the place that Quebec should occupy in such a gathering of states. The arrival on the scene of two new heads of government facilitated the progress of this issue, with the result that it was possible to hold a summit in Paris in February 1986. A second summit was held in Quebec City from 2-4 September 1987, at which Canada announced that it would be injecting \$17 million into the five major areas of cooperation identified by participants. This included an investment of \$7 million in the TV5 French-language television network, which is available for broadcasting in Canada.

C. Official Language Minority Rights

In an article published in *Language and Society* in the summer of 1983, nine of the original members of the Royal Commission on Bilingualism and Biculturalism indicated that they believe Canada has "weathered but not solved" the problems of the linguistic crisis they were appointed to examine in the 1960s. Although they rated the guarantees provided by the *Official Languages Act* and the Charter as "fair to good" they also suggested that implementation and administration remain problem areas. At the same time, while they praised initiatives by New Brunswick, they also indicated that most provinces with respect to minority language rights "have a long road to travel."

The 1981 census data on language in Canada, which appeared in a Statistics Canada publication in January 1985, would seem to support the views of the former Commissioners. The data show there is a trend to greater and greater concentration of French in Quebec and of English in the rest of Canada. However, two new phenomena can be observed in these data: French in Quebec neither gained nor lost over this decade, and more and more Anglophones in Quebec and elsewhere in English Canada have become bilingual. Initial data on mother tongue from the 1986 census seem to confirm the geographical polarization of the official languages in this country, since minority groups of each language have experienced a decline over the past five years. Conscious of the precarious situation faced by language minorities in Canada, the Commissioner of Official Languages

organized a national colloquium in the fall of 1985, called "The Minorities: Time for Solutions."

Though official languages policy and programs have not attracted much attention from the federal government since the Charter was adopted in 1982, they have been kept in the forefront of provincial governments' concerns by a number of events. They can be examined under the following headings: official recognition of the linguistic minority, services in the language of the minority, and linguistic rights before the courts, in the provincial legislatures and in education.

1. Official Recognition of the Language Minority

At the express request of New Brunswick, the Charter's sections on language rights apply to that province, which has been officially bilingual since 1969, when it adopted its own *Official Languages Act*. The implementation of this Act is still problematic, however. In 1986, a task force set up by Premier Hatfield to look into this issue tabled a lengthy report that would have gone a long way toward reinforcing the foundations of the equality of official languages in that province, but it was not followed up. Since the election of the Liberals, little concrete action has been taken, except for the setting up of a standing departmental committee on Acadian and linguistic affairs. However, in August 1989, formation of a New Brunswick wing of the Confederation of Regions (COR) party preaching English unilingualism for the province as its platform brought forth a vigorous verbal response from Premier McKenna, who characterized bilingualism as the nature and future of the province as well as being a matter of justice. The founding convention of the new party suggests that it is drawing support from a narrow spectrum of the population and exploiting the disorganization and demoralization of the provincial Conservatives.

According to the conditions governing its entry into Confederation, Manitoba was to be a bilingual province, but Francophone rights in that province have been restricted by the provincial legislature. The decision in the *Forest* case in 1979 and the *Bilodeau* case in 1982 stirred up some intense controversy regarding language in the province. As a result, the House of Commons adopted a *Resolution on French*

Language Rights in Manitoba in 1984. The *Bilodeau* case was appealed to the Supreme Court of Canada and resulted, in 1985, in a historic ruling by the highest court in the land, to the effect that the Manitoba laws passed since 1890 in English only were invalid. The laws were ruled to be temporarily valid, however, in order to avert legal chaos and give the province enough time to have the legislation translated -- this is to be completed before to 31 December 1988 in the case of legislation currently in force, procedural rules, and orders of administrative tribunals, and before 31 December 1990 in the case of repealed and lapsed legislation. In July 1987, the *Re-enacted Statutes of Manitoba Act, 1987* was passed in the legislature, in order to re-enact, in both official languages, 85% of the legislation of public interest in force in the province.

In Quebec, the separatist government that had proclaimed French the only official language of that province by adopting the *Charte de la langue française* [Charter of the French Language] in 1977 was defeated in the 1985 elections by the Liberal Party, which delayed introducing amendments to Bill 101. That bill suffered a number of setbacks as a result of rulings by the Court of Appeal and the Supreme Court, and the present government waited for the ruling concerning the language of public notices and signs before announcing its policy on the subject. On 15 December 1988, the Supreme Court invalidated those sections of the Charter of the French Language which related to commercial signs and firms' names. It ruled that the ban on languages other than French was inconsistent with freedom of expression and the right to non-discrimination as guaranteed by both the federal and Quebec charters of human rights and freedoms. However, the Court stated that signs with a marked predominance of French that did not exclude use of another language would meet the test of a "reasonable" limit on these rights.

Although expected, the court decision re-opened Quebec's language dispute. Anglophone opinion in Quebec and elsewhere accepted the "marked predominance of French" formula as a fair compromise, but a powerful element of nationalist Québécois sentiment rejected any weakening of the Charter of the French Language. Within a week, the government of Mr. Bourassa tabled, and the Quebec National Assembly adopted, Bill 178, An

Act to Amend the Charter of the French Language. The bill provides that French only must be used on signs: (1) outside commercial establishments, except for cultural activities or the sale of ethnic specialties; (2) inside certain establishments (such as commercial centres); and (3) inside public means of transport and their access routes. However, Bill 178 allows the use of another language inside establishments, as long as French is predominant. To protect its measures from court challenge, the bill invokes the "notwithstanding" provisions of the Canadian and Quebec charters of rights and freedoms.

Despite express requests from two Canadian Prime Ministers and the strong pressure exerted on the province throughout the constitutional reform process, Ontario has always refused to declare itself officially bilingual. It has preferred to proceed one step at a time, establishing services in French in certain designated regions and in spheres it considers have a priority. The coming into power of a Liberal government did alter the situation, however, as an enabling bill for the provision of services in French (Bill 8) was passed on 18 November 1986 and came into effect on 19 November 1989.

In Saskatchewan, the question of the status of the French-language minority was brought to the fore by a traffic ticket issued in English only. The *Mercure* case ended in the Supreme Court on 25 February 1988 with a historic ruling. The country's highest court affirmed that section 110 of the *Northwest Territories Act* was still in force in Saskatchewan, since its legislature had never repealed it. That section states that any person may use either English or French in debates in the Legislative Assembly and in court proceedings and that all ordinances made under the Act are to be printed in both languages. When the province of Saskatchewan was created in 1905, the government had asserted that all the statutes governing the legislative assembly of the Territories would be maintained. On the other hand, the *Mercure* ruling states that those statutes continued under the terms of the *Saskatchewan Act* may be repealed by the legislature that has jurisdiction. Since Alberta was also created by an Act deriving from the *Northwest Territories Act*, it could be assumed that the conclusions of the *Mercure* ruling would apply there as well.

On 4 April Mr. Grant Devine's government tabled a bill restricting the newly recognized rights of Saskatchewan's linguistic minority (ironically, rights acknowledged by the bill's bilingual format). The Act grants the Governor in Council full discretion to select the past and future legislation to be issued in both languages, allows the courts five years to publish their rules in both languages, and gives the Legislative Assembly full authority to decide whether its associated documents should be published in both languages. Pending those decisions, the Act confirms that the laws and the proceedings of the legislature have been and will be in English only. The Act represents a step toward recognizing the actual situation in the province, but a step backward in terms of the rights it takes away.

The Alberta government of Premier Getty reacted even more forcefully to the *Mercure* ruling. In June 1988 the legislature adopted Bill 60, which formally extinguished the historic but long-ignored status of French as an official language in the legislature and courts, leaving only the right to address the legislature in French without first asking permission from the Speaker.

Representatives of the Francophone communities in the two provinces reacted with outrage viewing the respective Acts as attacks on the spirit and letter of the Meech Lake Accord, in which the provincial premiers, including Mr. Devine and Mr. Getty, had pledged that they would preserve the existing rights of their linguistic minorities.

2. Services in the Minority Language

Although official recognition of the linguistic minority has not been very popular among the provinces, there has been, in recent years, a movement toward the provision of some services in the language of the minority; for example, the Ontario bill providing for the provision of services in French by 1989 in regions designated bilingual. In Quebec, Bill 142, passed in 1986, ensures the provision of social and health services to the English-language minority. On the other hand, Quebec's linguistic minority lost some recent battles: for example, the *Office de la langue française* stripped the municipality of Rosemere of its status as a bilingual town, and the National Assembly amended its legislation on

cinemas to restrict the screening of English-language films. In Manitoba, government departments and Crown corporations have already established their action plans for making their services bilingual in regions where the official language minority is concentrated; however, an official demonstration of the political will to set up these services is still missing. The situation is about the same in New Brunswick. In Saskatchewan, Prince Edward Island and Nova Scotia, ministers recently announced their intentions of offering some services in the language of the minority.

3. Language Rights in the Courts

The new *Official Languages Act* provides that all provinces must implement Part XIV.1 of the *Criminal Code*, which states that an accused person may choose the official language in which he/she wishes to be tried. French-speaking jurists in some provinces are involved in developing the infrastructure required to deal with this new situation, by forming provincial associations. This was done in Ontario a number of years ago, and in Saskatchewan and New Brunswick quite recently. No difficulties were encountered in the first trials conducted in French in provinces where the practice is new (Saskatchewan in October 1987 and Nova Scotia (Cape Breton) in January 1988).

4. Language Rights in Provincial Legislatures

The Léo Piquette affair in Alberta raised doubts concerning the status of the French language in the Alberta Legislative Assembly, which has ruled that MLAs must obtain the permission of the Speaker of the Assembly before speaking in any language other than English.

The right, pursuant to constitutional provisions, to use French and English in provincial legislatures applies in New Brunswick, Quebec and Manitoba. The Ontario legislature recognizes that its Members have this same right and Queen's Park has also provided simultaneous interpretation services since the fall of 1987. Resolutions providing for the use of both official languages have been adopted in Nova Scotia, Newfoundland and Prince Edward Island. British Columbia remains silent on

the subject. The *Mercure* ruling led to the adoption of new provisions in this area in Saskatchewan and Alberta.

5. Language Rights in Education

Section 23 of the Charter, which provides essential guarantees in the area of education for the English-speaking and French-speaking minorities of Canada, is the constitutional provision which has given rise to the most controversy in the provinces and before the courts.

In 1984, the Supreme Court of Canada ruled that Bill 101's restrictions concerning the language of education were incompatible with section 23 of the Charter and, therefore, of no effect. The "Canada clause" applied. The National Assembly regularized the status of pupils illegally enrolled in English-language schools by passing Bill 58 in June 1986. In December 1987, the Quebec Minister of Education introduced a bill to replace Protestant and Catholic school boards in Quebec with English-language and French-language boards. The Minister intends to have the bill ratified by the provincial Court of Appeal as soon as it is passed.

In Ontario, in the wake of a landmark decision handed down by the Court of Appeal on the educational rights of the language minority (June 1984), the Davis and Peterson governments recognized the right of every pupil to receive elementary and secondary schooling in his or her mother tongue throughout Ontario (Bill 119), and the right to have French-language schools and classes run by trustees elected by the Francophone population (Bill 75). The government took another step forward on April 11 1988 when it tabled a bill creating a French-language school board in Ottawa-Carleton, thus satisfying a demand first made over 10 years ago. The new Francophone board assumed its responsibilities at the beginning of 1989.

Alberta's Francophones turned to the decision of Ontario's Court of Appeal and section 23 of the Charter to back up their claims to the exclusive right to manage and control existing French language schools. On 15 March 1990, the Supreme Court brought down its decision in the *Mahé* case. It found that paragraph 23(3)(b) of the Charter granted a varying degree of management and control to minority language parents. A certain number of students could justify the creation of an independent

school board, whereas a smaller number of students might warrant only the presence of minority language representatives on existing boards. The Court applied this "variable criterion" principle to the whole of section 23. (For more information about the *Mahé* case, see MR-57E.)

On 18 February 1988, Saskatchewan's Court of Queen's Bench ruled in favour of 11 parents who argued that the province's education law was unconstitutional; the judgment was along the same lines as the 1984 Ontario Court of Appeal ruling. The parents are now demanding the creation of a province-wide French-language school board, which would bring all French schools in the province together under an independent body. In response, the government has decided to establish school councils -- *Conseils scolaires francsaskois* -- that will allow Francophone parents to manage their children's schools. Each school council will manage the local affairs of a Francophone school, including facilities, staff, instructional resources and local budgets. The individual local councils will nominate representatives to sit on a central council which will provide advice and oversee the operation of all the Francophone schools.

Throughout the country, then, a number of factors (constitutional power, changes in the status of the official languages, legislative measures, and public funding) have come together to keep language issues in the spotlight.

PARLIAMENTARY ACTION

- 1969 - Parliament adopted the *Official Languages Act*.
- 1973 - Parliament adopted a special *Resolution on Official Languages* which reaffirmed the principles of the Act and affirmed the right of public servants to work in the official language of their choice.
- 1978 - Parliament passed Bill C-42, amending the *Criminal Code* to give all accused persons the right to be heard by a judge or a judge and jury who speak the accused's official language, whether English or French.
- 1979 - Parliament created a Special Joint Committee on Official Languages to evaluate the progress made after ten years.

- 1981 - Parliament adopted a *Proposed Resolution for a Joint Address to Her Majesty Concerning the Constitution of Canada*, which contained a *Charter of Rights* incorporating the language rights guaranteed in the *Official Languages Act* and other new rights related to minority language education.
- April 1983 - The Special Joint Committee tabled its *Fifth Report* to Parliament. It recommended several amendments to the *Official Languages Act* and requested the government to table a comprehensive response to its report.
- October 1983 - Parliament unanimously adopted a Resolution on French Language Rights in Manitoba.
- March 1984 - Bill C-26, extending the application of the *Official Languages Act* to Yukon and the Northwest Territories was tabled in the House. It was not, however, taken up again by the new government.
- May 1984 - Parliament created the Standing Joint Committee on Official Languages Policy and Programs, which in February 1986 became the Standing Joint Committee on Official Languages.
- June 1985 - The Standing Joint Committee tabled its *Second Report* to Parliament, to which the government responded in December 1985.
- June 1987 - The federal government tabled Bill C-72, An Act respecting the status and use of the official languages of Canada.
- The Standing Joint Committee tabled its *Fourth Report*, dealing with the official languages program in the federal administration. The government responded in November of the same year.
- July 1988 - The new *Official Languages Act* was given Royal Assent.
- November 1990 - The government tabled the draft regulations on delivery of federal services to the public in both official languages.
- May 1991 - The Standing Joint Committee tabled its *Report*, together with dissenting opinions, on the proposed regulations on delivery of federal services.

CHRONOLOGY

- August 1977 - Adoption by the Quebec National Assembly of the *Charter of the French Language* declaring French the official language of Quebec.
- 13 December 1979 - Chapter III of Quebec's *Charter of the French Language* and Manitoba's *Official Language Act* was declared unconstitutional by the Supreme Court of Canada.
- 17 March 1979 - In the Manitoba Legislature, tabling of and first reading given to a bill to revive section 23 of *The Manitoba Act* (1870) and to repeal *The Language Act* of 1890.
- 14 April 1980 - In the Speech from the Throne, the federal government committed itself to undertaking the process of constitutional reform and to seek to have a declaration of individual rights and freedoms, including language rights, entrenched in the Constitution.
- May 1980 - The referendum in Quebec on separation was defeated by a vote of 59.6% to 40.4%.
- September 1980 - Federal-provincial First Ministers' Constitutional Conference failed to arrive at any consensus on constitutional guarantees for language rights.
- 6 October 1980 - Tabling in Parliament of the Proposed Resolution for a Joint Address to Her Majesty the Queen respecting the Constitution of Canada, which, *inter alia*, provided for language guarantees.
- 17 April 1982 - Proclamation of the *Constitution Act, 1982* including linguistic guarantees in an entrenched Charter of Rights and Freedoms (s. 16 to 20 and 23).
- 18 May 1983 - The Province of Manitoba indicated its intention to "opt in" to the language provision of the Charter.
- June 1984 - The judgment of the Ontario court of Appeal on the educational rights of Francophones.
- June 1984 - The Council of the Northwest Territories passed Bill 9-84(2) recognizing the use of native languages and establishing French and English as official languages.

- October 1984 - The Commissioner of Official Languages organized a national colloquium in Ottawa, entitled "The Minorities: Time for Solutions."
- November 1984 - A judgment of the Supreme Court of Canada ordered the government of Manitoba to translate all its laws into French.
- 11 February 1986 - The Commissioner of Official Languages presented to the Standing Joint Committee his suggestions for modifications to the *Official Languages Act*.
- 1 May 1986 - Supreme Court of Canada decisions weakened the constitutional protection afforded language minorities with respect to languages used in court.
- 19 June 1986 - New Brunswick's task force report on language equality was made public.
- June 1986 - The Quebec National Assembly passed Bill 58, regularizing the status of pupils illegally enrolled in Quebec's English-language schools.
- 10 July 1986 - The Legislature of Ontario passed Bill 75, giving Francophones a say in the management of their own schools.
- 18 November 1986 - The Ontario Legislature passed Bill 8, guaranteeing provision of services in French in designated regions of the province.
- December 1986 - The Quebec National Assembly passed Bill 142, ensuring provision of social and health services in English to Quebec's Anglophone minority.
- 7 April 1987 - MLA Léo Piquette was refused the right to speak French in the Alberta legislature.
- 30 April 1987 - The First Ministers, meeting at Meech Lake, reached a preliminary accord that would enable Quebec to sign the 1982 constitutional accord.
- 23 June 1987 - Quebec approved the new Constitutional Accord.
- 27-30 June 1987 - Representatives of all of North America's Francophones met in Quebec City.
- 2-4 September 1987 - The second Francophone Summit was held in Quebec
- 23 September 1987 - Saskatchewan approved the new Constitutional Accord.

- 1-2 November 1987 - The Reform Party of Canada held its first conference, at which a resolution against bilingualism was adopted.
- November 1987 - A resolution was adopted by Alberta's Legislative Assembly placing French on the same footing as other ethnic languages in Canada.
- 7 December 1987 - Alberta approved the Meech Lake Accord.
- 15 December 1987 - Bill 107, aimed at setting up school boards on the basis of language, was tabled in Quebec's National Assembly.
- 4 April 1988 - A bill responding to the Supreme Court ruling in the *Mercure* case was tabled in Saskatchewan's Legislative Assembly; in June, similar legislation was tabled in Alberta.
- 11 April 1988 - A bill creating a French-language school board in the Ottawa-Carleton region was tabled in Ontario's legislature.
- 28 July 1988 - The new *Official Languages Act* (Bill C-72) was given Royal Assent.
- 21 December 1988 - Quebec National Assembly adopted Bill 178 in response to the Supreme Court decision in the *Chaussure Brown's* and *Singer* cases.
- 15 March 1990 - The Supreme Court decision in *Mahé v. Alberta*, found that section 23 of the Charter gave parents a right to a varying degree of management and control over minority language schools.
- October 1990 - The Commissioner took Air Canada to court over commercial advertising in the minority language press.

CASES

- Jones v. The Attorney General of New Brunswick*, [1975] 2 S.C.R. 182 583.
- Protestant School Board of Greater Montreal v. Minister of Education of Quebec*, [1976] C.S. 480.
- Association des gens de l'air du Québec v. Lang*, [1978] 2 C.F. 371.
- Attorney General of Quebec v. Blaikie*, [1979] 2 S.C.R. 1016.

- Attorney General of Manitoba v. Forest*, [1979] 2 S.C.R. 1032.
- Bilodeau v. Attorney General of Manitoba*, [1981] 5 W.W.R. 393.
- Air Canada v. Joyal*, [1982] 134 D.L.R. (3d) 410.
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- Mahe v. Alberta*, [1985] 19 Alta L.R. (2d) 215.
- Paquette v. Attorney General of Alberta*, [1986] 40 Alta L.R. (2d) 38.
- Bilodeau v. Attorney General of Manitoba*, [1986] 1 S.C.R. 449.
- MacDonald v. City of Montreal*, [1986] 1 S.C.R. 460.
- Société des Acadiens du Nouveau-Brunswick v. Association of Parents for Fairness in Education*, [1986] 1 S.C.R. 549.
- Devine v. Attorney General of Quebec*, [1987], Quebec Court of Appeal [R.J.Q. 50].
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APPENDIX

Official Languages of Canada

Official languages of Canada	16. (1) English and French are the official languages of Canada and have equality of status and equal rights and privileges as to their use in all institutions of the Parliament and government of Canada.
Official languages of New Brunswick	(2) English and French are the official languages of New Brunswick and have equality of status and equal rights and privileges as to their use in all institutions of the legislature and government of New Brunswick.
Advancement of status and use	(3) Nothing in this Charter limits the authority of Parliament or a legislature to advance the equality of status or use of English and French.
Proceedings of Parliament	17. (1) Everyone has the right to use English or French in any debates and other proceedings of Parliament.
Proceedings of New Brunswick legislature	(2) Everyone has the right to use English or French in any debates and other proceedings of the legislature of New Brunswick.
Parliamentary statutes and records	18. (1) The statutes, records and journals of Parliament shall be printed and published in English and French and both language versions are equally authoritative.
New Brunswick statutes and records	(2) The statutes, records and journals of the legislature of New Brunswick shall be printed and published in English and French and both language versions are equally authoritative.
Proceedings in courts established by Parliament	19. (1) Either English or French may be used by any person in, or in any pleading in or process issuing from, any court established by Parliament.
Proceedings in New Brunswick courts	(2) Either English or French may be used by any person in, or in any pleading in or process issuing from, any court of New Brunswick.
Communications by public with federal institutions	20. (1) Any member of the public in Canada has the right to communicate with, and to receive available services from, any head or central office of an institution of the Parliament or government of Canada in English or French, and has the same right with respect to any other office of any such institution where (a) there is a significant demand for communications with and services from that office in such language; or (b) due to the nature of the office, it is reasonable that communications with and services from that office be available in both English and French.
Communications by public with New Brunswick institutions	(2) Any member of the public in New Brunswick has the right to communicate with, and to receive available services from, any office of an institution of the legislature or government of New Brunswick in English or French.
Continuation of existing constitutional provisions	21. Nothing in sections 16 to 20 abrogates or derogates from any right, privilege or obligation with respect to the English and French languages, or either of them, that exists or is continued by virtue of any other provision of the Constitution of Canada.
Rights and privileges preserved	22. Nothing in sections 16 to 20 abrogates or derogates from any legal or customary right or privilege acquired or enjoyed either before or after the coming into force of this Charter with respect to any language that is not English or French.

Minority Language Educational Rights

Language of
instruction

23. (1) Citizens of Canada

- (a) whose first language learned and still understood is that of the English or French linguistic minority population of the province in which they reside, or
(b) who have received their primary school instruction in Canada in English or French and reside in a province where the language in which they received that instruction is the language of the English or French linguistic minority population of the province,

have the right to have their children receive primary and secondary school instruction in that language in that province.

Continuity
of language
instruction

(2) Citizens of Canada of whom any child has received or is receiving primary or secondary school instruction in English or French in Canada, have the right to have all their children receive primary and secondary school instruction in the same language.

Application where
numbers warrant

(3) The right of citizens of Canada under subsections (1) and (2) to have their children receive primary and secondary school instruction in the language of the English or French linguistic minority population of a province

- (a) applies wherever in the province the number of children of citizens who have such a right is sufficient to warrant the provision to them out of public funds of minority language instruction; and
(b) includes, where the number of those children so warrants, the right to have them receive that instruction in minority language educational facilities provided out of public funds.

Commencement of
paragraph 23(1)(a)
in respect of
Quebec

59. (1) Paragraph 23(1)(a) shall come into force in respect of Quebec on a day to be fixed by proclamation issued by the Queen or the Governor General under the Great Seal of Canada.

Authorization
of Quebec

(2) A proclamation under subsection (1) shall be issued only where authorized by the legislative assembly or government of Quebec.

Repeal of
this section

(3) This section may be repealed on the day paragraph 23(1)(a) comes into force in respect of Quebec and this Act amended and renumbered, consequential upon the repeal of this section, by proclamation issued by the Queen or the Governor General under the Great Seal of Canada.*

* Section 59 of the *Constitution Act, 1982*, is not a part of the Charter of Rights and Freedoms. However, it is reproduced here because it directly relates to the subject of minority language education rights.